THE BOMBAY AGRICULTURAL PESTS AND DISEASES ACT, 1947.

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BOMBAY ACT No. XLIII OF 1947.[1]

[THE BOMBAY AGRICULTURAL PESTS AND DISEASES ACT, 1947.]

[*10th December 1947*]

Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom 33 of 1951.
,, ,, ,, 10 of 1955.

An Act to repeal and re-enact the Bombay Agricultural Pests and Diseases Act, 1941, providing for the prevention of the introduction, spread, or re-appearance of insect pests, plant diseases and noxious weeds injurious to crops, plants or trees in the Province of Bombay.

26 Geo. 5, Ch. 2. Bom. XIV of 1941.

WHEREAS in view of the provisions of sub-section (*4*) of section 93 of the Government of India Act, 1935, it is expedient to repeal and re-enact the Bombay Agricultural Pests and Diseases Act, 1941, providing for the prevention of the introduction, spread or re-appearance of insect pests, plant diseases and noxious weeds injurious to crops, plants or trees in the Province of Bombay; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Bombay Agricultural Pests and Diseases Act, 1947.

(*2*) It extends to the whole of the [2][State] of Bombay.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context—

(*1*) "Assessor" means an assessor appointed under section 14;

(*2*) "Insect pest" means any pest declared to be an insect pest by notification under section 3;

(*3*) "Inspector" means an inspector appointed under section 14;

(*4*) "Notified Area" means any area specified in the notification issued under section 3 in which a declaration made under the said section shall remain in force;

(*5*) "Noxious weed" means any weed declared to be a noxious weed by notification under section 3;

(*6*) "Occupier" means the person having for the time being the right of occupation of any land or premises, or his authorized agent or any person in actual occupation of the land or premises;

(*7*) "Pest" means any insect or other invertebrate animal;

(*8*) "Plant" includes the fruit, leaves, bark, cuttings and any living portion of a plant but does not include the seed:

Provided that the [3][State] Government may by notification in the *Official Gazette* direct that the seed of any particular plant shall be included in the definition of plant;

(*9*) "Plant disease" means any fungoid, bacterial, parasitical or other disease declared to be a plant disease by notification under section 3;

(*10*) "Prescribed" means prescribed by rules made under section 17.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Part V, page 245; for Proceedings in Assembly *see* Bombay Legislative Assembly Debates, 1947, Vol. XI; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XIII.

[2] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

[3] This word was substituted for the word "Provincial". *Ibid.*

Power to declare insect pests, plant diseases and noxious weeds and direct measures to eradicate or prevent them.

3. Whenever it appears to the [1][State] Government that any pest, disease or weed is injurious to crops, plants or trees in any local area and that it is necessary to take measures to eradicate such pest,disease or weed, or to prevent its introduction, spread or re-appearance, the [1][State] Government may, by notification in the *Official Gazette*—

(*i*) declare that such pest, disease or weed is an insect pest, plant disease or noxious weed ;

(*ii*) specify the local area within which and the period during which such declaration shall remain in force ;

(*iii*) prohibit or restrict the removal of any plant or tree from one place to another ; and

(*iv*) direct the carrying out of such preventive or remedial measures including the destruction of any pest, disease or noxious weed or any crops, plants or trees, as the [1][State] Government may deem necessary, in order to eradicate such pest, disease or weed or to prevent its introduction, spread or re-appearance.

Duties of occupier on the issue of a notification under section 3.

4. On the issue of a notification under section 3, every occupier within the notified area shall carry out the preventive or remedial measures mentioned in such notification.

Power of Inspector to enter upon any land or premises.

5. Any Inspector may, after giving the prescribed notice, enter upon any land or premises situated in a notified area for the purpose of ascertaining—

(*i*) whether there is any insect pest, plant disease or noxious weed on such land or premises ; and

(*ii*) whether the preventive or remedial measures mentioned in the notification issued under section 3 have been carried out.

Notice to occupier to carry out preventive or remedial measures.

6. (*1*) If, on inspection of any land or premises under section 5, the Inspector finds that there is any insect pest, plant disease or noxious weed on such land or premises or that the preventive or remedial measures mentioned in the notification issued under section 3 have not been carried out, the Inspector may, subject to the general or special order of the [1][State] Government, call upon the occupier of such land or premises, by notice in writing, to carry out such preventive or remedial measures within the time specified in such notice.

(*2*) Within seven days from the date of the service upon him of the notice under sub-section (*1*) the occupier may prefer an appeal to the Collector or such other officer as the Collector may appoint in this behalf.

(*3*) On receipt of the appeal under sub-section (*2*) the Collector or other officer, as the case may be, may extend the time specified in the notice under sub-section (*1*) and shall, after giving the occupier an opportunity of being heard, pass such order on the appeal as he thinks fit.

(*4*) Every order passed under sub-section (*3*) shall be final.

Failure to comply with notice under section 6 and power of Inspector to carry out measures.

7. (*1*) If an occupier upon whom a notice has been served under sub-section (*1*) of section 6 does not comply with such notice within the time specified therein, or if an appeal has been preferred under sub-section (*2*) of section 6, does not comply with the order passed on such appeal, the Inspector may carry out the preventive or remedial measures mentioned in such notice or order.

[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

(*2*) The costs of any preventive or remedial measures carried out under sub-section (*1*) shall be payable by the occupier and shall be recoverable from him as an arrear of land revenue.

(*3*) Any such occupier may, within thirty days from the date of the first demand of such costs from him, prefer an appeal to the Collector or to such other officer as the Collector may appoint in this behalf on the ground that—

(*i*) the costs include charges for items other than the cost of labour, material or use of implements, or

(*ii*) the charges for labour or material or use of implements are unreasonably high.

(*4*) On receipt of the appeal under sub-section (*3*), the Collector or other officer, as the case may be, shall, after giving the occupier an opportunity of being heard, pass such order thereon as he thinks fit.

(*5*) Every order passed under sub-section (*4*) shall be final.

Compensation for destruction of trees or plants.

8. (*1*) If, in carrying out any preventive or remedial measures under sub-section (*1*) of section 7, the Inspector destroys or causes to be destroyed—

(*a*) any tree which is infected with an insect pest or a plant disease, or

(*b*) any plants some or all of which are infected with insect pest or plant disease and which are grown so closely together that it is not practicable to treat each plant individually, or

(*c*) any plants or trees, which though not infected at the time with an insect pest or a plant disease, are, in the opinion of the Inspector, liable to such infection,

the Inspector shall give notice to the occupier of the land or premises on which such trees or plants were grown stating particulars of the trees or plants destroyed and his estimate of their value.

(*2*) When any tree or plant is destroyed under sub-section (*1*), the occupier shall be entitled to compensation determined in the manner provided in section 11.

Compensation for trees or plants destroyed by occupier.

9. If an occupier in carrying out any preventive or remedial measures, directed to be carried out by the notification issued under section 3 or the notice given under sub-section (*1*) of section 6, destroys any tree or plant in accordance with such direction, he shall be entitled to such compensation as he would have been entitled to under section 8 if such tree or plant had been destroyed by the Inspector.

Procedure for claims for compensation.

10. Every claim for compensation shall be made in writing to the Assessor within one month from the date of—

(*i*) the notice given under sub-section (*1*) of section 8, if the claim is made under the said section, or

(*ii*) the destruction of the tree or plant, as the case may be, if the claim is made under section 9.

Award of Assessor; Appeal.

11. (*1*) On receipt of any claim under section 10, the Assessor shall, subject to the provisions of sub-section (*2*) and after making an enquiry in the prescribed manner and taking such evidence as he thinks fit, fix the amount of compensation due to the occupier under the provisions of this Act and make an award for such amount.

(*2*) The amount of compensation shall—

(*a*) for every destroyed tree of the kind referred to in clause (*a*) of sub-section (*1*) of section 8, not exceed one half of the value of the said tree ;

(*b*) for every destroyed plant of the kind referred to in clause (*b*) of sub-section (*1*) of section 8, not exceed the three-fifths of its value ; and

(*c*) for every destroyed plant or tree of the kind referred to in clause (*c*) of sub-section (*1*) of section 8, be its full value :

Provided that no compensation shall be payable for—

(*i*) any noxious weed destroyed ;

(*ii*) any cotton plant destroyed in order to eradicate or prevent the introduction or reappearance of any insect pest or plant disease ;

(*iii*) the destruction of trees and plants infected with any insect pest or plant disease which in the opinion of the Inspector contracted infection due to the negligence of the occupier in carrying out the preventive or remedial measures mentioned in the notification issued under section 3.

Explanation.—For the purposes of this section, value means the value of a tree or plant at the time of its destruction.

(*3*) If any amount is due from the occupier on account of costs incurred in carrying out the preventive or remedial measures under sub-section (*1*) of section 7, the whole or part of the amount of compensation awarded to him, as may be necessary, shall be set off against the amount of costs due from him.

(*4*) A copy of every award made by an Assessor shall be sent to the occupier to whom such compensation has been awarded and to the Inspector of the notified area concerned.

(*5*) The occupier or the Inspector, as the case may be, may, within 30 days from the date of receipt of a copy of the award under sub-section (*4*), prefer an appeal to the Collector against the award.

(*6*) On receipt of the appeal under sub-section (*5*), the Collector shall, after giving the occupier and the Inspector an opportunity of being heard, pass such order thereon as he thinks fit.

(*7*) Every order passed under sub-section (*6*) shall be final.

Duty of certain village officers to report appearance of insect pest, plant disease or noxious weed.

12. (*1*) If any insect pest, plant disease or noxious weed appears in any village adjoining a notified area, the village officers of such village shall forthwith report the fact to the C llector or such other officer as the [1][State] Government may appoint in this behalf.

(*2*) The Collector or such other officer, as the case may be, shall on receipt of such report and after making such further inquiry as he may deem necessary forward it to the [1][State] Government with his remarks thereon.

Public to assist and to render service in carrying out preventive or remedial measures including destruction of locusts in case of locust menace.

[2][**12A.** (*1*) When any notified area in which locusts have been declared to be an insect pest under section 3 is invaded or is in danger of an invasion by locusts, the C llector or any officer appointed by him in this behalf may, with a view to facilitating preventive or remedial measures against locusts, by proclamation published in the manner hereinafter specified—

(*a*) call upon all male persons not below the age of 14 and above the age of 60 years and re iding in the notified area to render all possible assistance in carrying out preventive or remedial measures and in the destruction of locusts :

[1] This word was substituted for tl e word "Provincial" by the Adaptation of Laws Order, 1950.
[2] Section 12A was inserted by Bom. 33 of 1951, s. 2.

Provided that no person who, on account of physical infirmity, is incapable of rendering assistance or who resides at a distance of more than 5 miles from the place where his assistance is required, shall be called upon to render assistance under this clause ;

(*b*) require all or any male persons not below the age of 18 and above the age of 60 years and residing in the notified area to pre ent themselves at such time and at such place and to such authority as may be specified in the proclamation and to render such service and for such time as may be required of them by the authority to whom they have presented themselves in pursuance of such proclamation :

Provided that no person who, on account of physical infirmity, is incapable of rendering such service shall be called upon to render service under this clause.

(*2*) When any person is called upon to render assistance under clause (*a*) of sub-section (*1*) the C llector or the officer app inted or any officer authorised by the Collector may direct such person to do or not to do any particular thing.

(*3*) Persons who are called upon to render service under clause (*b*) of sub-section (*1*) shall, in consideration of such service, be entitled to such payment as may be prescribed.

(*4*) A proclamation under sub-section (*1*) shall be published by beat of drum in the town or village and by affixing a copy thereof in chawdi r in some other public building or place in the town or village, as the case may be, and the statement in writing by the Collector or officer making the proclamation to the effect that the proclamation was duly published on a specified day, shall be conclusive ev dence that the requirements of this section have been complied with and that the proclamation was published on such day.

(*5*) A proclamation under sub-section (*1*) shall cease to operate at the expiration of three months from the date of its issue unless before the expiration of the aid period of three months, the State Government by public notice extends it to a further period not exceeding three months. The provisions of sub-section (*4*) shall *mutatis mutandis* apply to the publication of such public notice.]

Power to requisition vehicles in case of locust menace.

[1][**12B.** (*1*) When any notified area in which locusts have been declared to be an insect pest under section 3 is invaded or is in danger of an invasion by locusts, the Collector or any officer app inted by him in this behalf may, with a view to facilitating preventive or remedial measures against locusts, by order in writing requisition any vehicle and make such ther orders as may appear to him to be necessary or expedient in connection with such requisition. Any vehicle requisitioned under this section may then be used or dealt with in such manner as may appear to be necessary or expedient to the officer requisitioning the vehicle.

(*2*) (*i*) Every order made under sub-section (*1*) shall,—

(*a*) if it is an order affecting a corporation or a firm, be served in the manner provided for the service of a summons in rule 2 of Order XXIX or rule 3 of Order XXX. as the case may be, in the First Schedule of the Code of Civil Procedure, 1908 ;

V of 1908.

[1] Section 12B was Inserted by Bom. 33 of 1951, s. 2.

(*b*) if it is an order affecting an individual owner other than a corporation or a firm, be served on the owner,—

(*i*) personally by delivering or tendering to him the order, or

(*ii*) by post, or

(*iii*) where the owner cannot be found, by leaving an authentic copy of the order with some adult male member of the family or by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried on business or worked for gain ;

(*c*) if the ownership of the vehicle to be requisitioned is in dispute, be published in the *Official Gazette*.

(*ii*) Where a question arises whether a person or owner was duly informed of an order made in pursuance of sub-section (*1*) compliance with the requirements of this sub-section shall be conclusive proof that he was so informed ; but failure to comply with the said requirements shall not preclude proof by other means that he was so informed or affect the validity of the order.

(*3*) If the owner of the vehicle does not, after service of the order in the manner provided in sub-section (*2*), place the vehicle in possession of the officer or authority mentioned therein, such officer or authority, as the case may be, may seize the vehicle from any person who may for the time being be in possession thereof.

(*4*) No owner of any vehicle or any person in possession of it shall, after service or publication of an order under this section, remove or allow to be removed any part, tyre, tube or any other accessory or in any way damage the vehicle or permit it to be damaged so as to reduce the usefulness of such vehicle.

(*5*) When any vehicle is requisitioned under this section, there shall be paid to the owner such compensation, as may be agreed upon between him and the officer requisitioning the vehicle and in the absence of such agreement, such compensation as may be determined by the Collector. In determining the amount of compensation, the Collector shall take into consideration the loss caused to the owner by reason of requisition and also the model, make, type, class and condition of the vehicle at the time of requisition .

Provided that the maximum rate of compensation payable to the owner shall not exceed such rate per day as the State Government may, by general or special order, fix from time to time, having regard to the current rates of hire of such vehicles prevailing in the district during the period of requisition.

The order determining the compensation made under this sub-section shall be served in the manner provided in sub-section (*2*).

(*6*) The officer requisitioning any vehicle may at any time release the vehicle from requisition and when it is decided to do so, a notice in writing shall be served on the owner in the manner provided in sub-section (*2*) to take delivery of the vehicle on or before such date and from such place and person as may be specified therein.

(*7*) When such notice is served, with effect from such date no further liability for compensation or payment of any other kind shall accrue for requisitioning the vehicle ;

Provided that the officer requisitioning the vehicle may make such further payment on account of compensation for any material damage done to the vehicle during the period of requisition as may be assessed by the Collector.

(*8*) The delivery of possession of the vehicle to the owner or his accredited agent shall be a full discharge of any liability of the State Government to deliver possession to such person as may have rightful claim to possession thereof but shall not prejudice any right in respect of such vehicle which any other person may be entitled by due process of law to enforce against the person to whom possession of the vehicle is so delivered.

(*9*) If the owner fails to take delivery of the vehicle on or before the specified date the officer who passed the order of release of the vehicle may dispose of the same thereafter in the manner provided in sub-section (*10*):

Provided that such officer shall be competent to allow the owner such extension of time as he deems proper without any liability for any compensation or other payment for the period of extension.

(*10*) The disposal of a vehicle under sub-section (*9*) shall be by public auction and at the risk of the owner and the sale proceeds shall be made over to the owner after deducting any expenditure incurred by the officer releasing the vehicle from requisition due to the owner not taking delivery of it on or before the specified date.

(*11*) The Collector or the officer appointed by him in this behalf may, with a view to requisitioning any vehicle under this section or determining the compensation payable for such requisitioning, by order in writing—

(*a*) require any person to furnish to such officer or authority as may be specified in the order such information in his possession relating to the vehicle as may be specified;

(*b*) direct that the owner or the person in possession of the vehicle shall not without his permission dispose it of or remove it till the expiry of such period as may be specified in the order from the premises or the place in which it is kept.

Explanation.—For the purposes of this section—

(*a*) "owner" includes in relation to a vehicle which is the subject of a hire purchase agreement the person in possession of the vehicle under the agreement;

(*b*) "vehicle" means any vehicle used or capable of being used for the purpose of transport of persons or goods upon roads, whether propelled by mechanical power or not.]

[1][**12C.** (*1*) Every order passed under section 12B, including any order determining compensation for requisitioning vehicles shall be appealable to the Collector if it is passed by any officer lower in rank than that of a Collector and to the prescribed authority if it is passed by the Collector. **Appeal against orders passed under section 12B.**

(*2*) Such appeal shall be presented within 30 days of the date on which the order appealed against was served on the appellant.

(*3*) Every order passed in such appeal shall be final.]

[1][**12D.** Without prejudice to any powers otherwise conferred by this Act, any person authorised in this behalf by the State Government may enter and inspect any premises or vehicle for the purpose of ascertaining or determining whether, and if so, in what manner any order under section 12A or 12B should be made or with a view to securing compliance with any order made thereunder.] **Special powers of entry and inspection.**

[1] Sections 12C and 12D were inserted by Bom. 33 of 1951, s. 2.

Penalty.

13. (*1*) Whoever removes any plant or tree in contravention of the directions contained in a notification issued under section 3 shall, on conviction, be punishable with fine which may extend to Rs. 25.

(*2*) Any occupier who fails to comply with a notice given under sub-section (*1*) of section 6 or with any order passed on appeal under sub-section (*3*) of section 6 shall, on conviction, be punishable with fine which may extend to Rs. 25.

(*3*) Whoever commits a breach of the provisions of any rule made under section 17 shall, on conviction, be punishable with fine which may extend to Rs. 25.

(*4*) Whenever any person is convicted under this Act, the Court may, in addition to the penalty imposed under this Act, order the destruction of any plant or tree of the kind referred in clause (*a*), (*b*) or (*c*) of sub-section (*1*) of section 8.

Further penalties.

[1][**13A.** (*1*) Whoever without reasonable excuse fails to render in the manner required any assistance or service which he is required to render or to do anything or to abstain from doing anything which he is required to do or to abstain from doing in pursuance of a proclamation under section 12A shall, on conviction, be punished with fine which may extend to rupees fifty.

(*2*) Whoever contravenes any order made under section 12B or does anything in contravention of the provisions of the said section shall, on conviction be punished with fine which may extend to rupees five hundred.

(*3*) Whoever voluntarily obstructs or offers any resistance to or impedes or otherwise interferes with—

(*a*) any officer or person exercising any powers or performing any duties conferred or imposed on him by or in pursuance of the provisions of this Act or otherwise discharging any lawful functions in connection with preventive or remedial measures taken or to be taken against locusts under the provisions of this Act or any proclamations, orders or directions made or given thereunder, or

(*b*) any person who is carrying out the orders or directions of any such officer or person as aforesaid or who is otherwise acting in accordance with his duty in pursuance of this Act or any proclamations, orders or directions made or given thereunder,

shall, on conviction, be punished with imprisonment which may extend to three months or with fine which may extend to rupees five hundred or with both.

Special procedure regarding trial of certain offences.

13B. Offences under section 13A shall be tried in accordance with the provisions contained in sections 262 to 265 of the Code of Criminal Procedure, 1898.] V of 1898.

Appointment of Inspectors and Assessors.

14. The [2][State] Government may, by notification in the *Official Gazette*, appoint persons as Inspectors and Assessors for such local areas as may be specified in the notification.

Bar of suit or other legal proceedings.

15. (*1*) No suit, prosecution or legal proceedings shall lie against any person in respect of anything in good faith done or intended to be done under this Act.

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[1] Sections 13A and 13B were inserted by Bom. 33 of 1951, s. 3.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*2*) No prosecution under this Act shall be commenced without the previous sanction of the Collector, nor after six months from the date of the commission of the alleged offence.

16. The powers conferred on the [1][State] Government under this Act may, with the exception of the powers under [2][section 17] be delegated by the [1][State] Government to any officer. Delegation of powers.

17. (*1*) The [1][State] Government may make rules for the purpose of carrying into effect the provisions of this Act. Rules.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following purposes, namely :—

(*i*) the manner of giving notice under section 5;

(*ii*) the manner of making of an enquiry under sub-section (*1*) of section 11 ;

[3][(*ii-a*) the payment of remuneration to persons for the services required to be rendered under section 12A ;

(*ii-b*) the authority to whom appeals may be made under section 12C against the orders of the Collector and the procedure to be followed in respect of such appeals] ; and

(*iii*) the mode of determining the value of trees and plants for the purposes of this Act.

(*3*) The rules made under this section shall, subject to the condition of previous publication, be published in the *Official Gazette*.

Bom. XIV of 1941.

18. The Bombay Agricultural Pests and Diseases Act, 1941, is hereby repealed. Repeal of Bom. XIV of 1941.

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[2] This word and figures were substituted for the words and figures " sections 3 and 17 " by Bom. 10 of 1955, s. 2.
[3] These clauses were inserted by Bom. 33 of 1951, s. 4.